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February 8, 2013

Wanda E. Ellert
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VIA ECF and NEXT BUSINESS DAY DELIVERY

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Honorable Peter G. Sheridan, U.S.D.J.
United States District Court
District of New Jersey
Clarkson S. Fisher Federal Bldg. & U.S. Courthouse
Room 4050
402 E. State Street
Trenton, NJ 08608

Re: Telecommunications Research Laboratories d/b/a TR LABS et al. v. BT Americas, Inc.
Civil Action No.: 3:12-cv-6828 (PGS) (DEA)

Your Honor:

We represent BT Americas, Inc. ("BT Americas") in the above-referenced patent infringement litigation, a case that is one of the cases subject to MDL Order No. 2396. On January 15, 2013, our client filed a Motion to Dismiss the Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) and in the Alternative, to Stay Plaintiffs' Claims Against BT Americas, Inc. (Dkt. No. 11.) Plaintiffs responded by filing an Amended Complaint (Dkt. No. 19) on January 29, 2013, in which Plaintiffs dropped five of the seven patents that were originally asserted against BT Americas, Inc., in the original Complaint. BT Americas submitted an Application for a Clerk's Order to extend the time to answer, move, or otherwise respond to the Amended Complaint. Magistrate Judge Arpert entered an Order on February 4, 2013 (Dkt. No. 23), that BT Americas has until February 27, 2013, to answer, move, or otherwise respond to the Amended Complaint.

We were surprised to see that on February 5, 2013, Plaintiffs filed an Opposition to BT Americas' Motion to Dismiss Pursuant To Fed. R. Civ. P. 12(b)(6) Or To Stay Proceedings (Dkt. No. 24), because we understood Plaintiffs' Amended Complaint to moot BT Americas' motion, which was directed against the original Complaint asserting seven patents, not the Amended Complaint asserting two patents that is the currently operative pleading to which BT Americas must answer, move or otherwise respond. BT Americas intends to move to dismiss the Amended Complaint, or in the alternative to stay proceedings against BT Americas pending resolution of Plaintiffs claims against BT Americas' supplier Qwest. Under Magistrate Judge Arpert's Order, we have until February 27, 2013 to do so.

We contacted Chambers and spoke to Your Honor's Law Clerk, who indicated that he believed our understanding to be correct, but suggested we communicate with opposing counsel on this matter and also submit a letter to the Court. We have informed opposing counsel of our understanding and how our client intends to proceed. (Exhibit A.) Although Plaintiffs' counsel responded that Plaintiffs did not intend to moot BT Americas' motion, we continue to believe that is the legal effect.

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Consequently, BT Americas intends to file a renewed motion directed to the Amended Complaint rather than file a reply to its motion brought on the original Complaint. If for any reason our understanding is incorrect, we ask that the Court advise us as soon as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wanda L. Ellert", with a stylized flourish at the end.

Wanda L. Ellert

WLE:ab

Attachment (Exhibit A)

cc: Counsel for Plaintiffs via ecf and e-mail

EXHIBIT A

----- Original Message -----

From: George Summerfield [<mailto:summerfield@stadheimgrear.com>]
Sent: Wednesday, February 06, 2013 03:26 PM
To: Stellabotte, John C.
Cc: Beata Ichou <ichou@stadheimgrear.com>; Steve Pedersen
<pedersen@stadheimgrear.com>
Subject: RE: TR Labs v. BT Americas

John

The two documents complement one another. We certainly did not understand our amended complaint to moot the motion, unless you are telling me that the amended complaint in fact resolves the issues raised in your motion.

Regards,

George

George C. Summerfield
STADHEIM & GREAR
400 North Michigan Avenue
Suite 2200
Chicago, Illinois 60611
(312) 755-4400

From: Stellabotte, John C. [JStellabotte@proskauer.com]
Sent: Wednesday, February 06, 2013 13:10
To: George Summerfield
Cc: Ellert, Wanda L.
Subject: TR Labs v. BT Americas

Dear George,

We were surprised to receive TR Labs' Opposition to BT Americas' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) Or To Stay Proceedings yesterday. We understood TR Labs' filing of the Amended Complaint to moot BT Americas' motion made with regard to the original Complaint. We contacted the Judge Sheridan's law clerk, who confirmed our understanding. BT Americas intends to refile its motion with regard to the Amended Complaint in due course.

In addition, can you please let us know whether in amending its Complaint to limit its infringement contentions to the two patents with apparatus claims, TR Labs is also dropping and no longer asserting against BT Americas the method claims of the two remaining patents-in-suit in the Amended Complaint? Thanks.

Sincerely,

John C. Stellabotte
Senior Counsel

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EXHIBIT A

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